IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 59 of 1992

Date of Decision: I.8. 2007.

State of H P. Appellant.

Versus

Triloki Nath & another Respondents.

Coram

Hon'ble Mr. Justice Surjit Singh, J.
Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]? No.

For the appellant : Sh.S.D.Vasudeva, Addl. Advocate General, with Mr. D.S. Nainta Dy. Advocate General.

For respondents. : Ms. Anita Dogra Advocate vice Mr. Ramakant Sharma, Advocate.

Surjit Singh, J . (oral)

Heard and gone through the record.

The respondents Triloki Nath and Prabhu Dayal who were working as Manager and Cashier, respectively, in Jogindra Central Cooperative Bank, were sent up for trial for offences punishable under Sections 420, 467, 477-A read with Section 34, Indian Penal Code.

The allegations made against them may be summed up thus: Sant Ram (PW15) opened an account with Jogindra Central Cooperative Bank, Jainagar in the year 1985. Initially, he deposited rupees 10,000/-. At one point of time, he had an amount of rupees 31,411/- in his account. He withdrew only a sum of rupees 15,000/- on 6.12.1987. Thereafter, the respondent Triloki Nath obtained the signatures of PW15 Sant Ram on a withdrawal form on the pretext that information regarding the withdrawal of

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[1] Whether reporters of the Local papers are allowed to see the judgment?

the amount of rupees 15,000/- was required to be sent to the Head office of the Bank at Nalagarh. On 22.7.1988, respondent Triloki Nath went on leave. On 23.2.1987 (sic the date is recorded as such in the complaint of Sant Ram Exhibit PW15/A), Rajinder Parsad who was officiating as Manager, called PW15 Sant Ram and told him that a sum of rupees 30,000/- was due from him as per his saving bank account and that interest had been accruing on that amount and was being debited in his account. PW15 Sant Ram made enquiries and came to know that withdrawal form Exhibit PW16/A on which his signatures had been obtained by respondent Triloki Nath had been mis-used by him and respondent Prabhu Dayal and a sum of rupees 30,000/- had been drawn against the said form out of his aforesaid saving bank account. A complaint was lodged in writing by PW15 Sant Ram with the Police. The same is Exhibit PW15/A. Case was formally registered vide Exhibit PW17/A on the basis of which investigation was conducted. Ultimately, the respondents were challaned under the aforesaid provisions of the Indian Penal Code and charge-sheeted by the Court and put on trial. They pleaded not guilty.

Trial Court has acquitted the respondents holding that the case of the prosecution does not stand established.

We have heard learned Additional Advocate General and gone through the record.

Sant Ram appeared as PW15 before the trial Court. Though he stated that his signatures had been obtained on withdrawal form Exhibit PW16/A but he did not say that the same had been obtained on the pretext that information regarding the withdrawal of an amount of rupees 15,000/- by him (the witness) was required to be sent to the Head office at Nalagarh as is alleged in the complaint Exhibit PW15/A. He did not say that his signatures on the form had been obtained on any pretext nor did he explain why he signed the withdrawal form just on the asking of the respondent.

Therefore, the presumption should be that he withdrew the money as mentioned in the withdrawal form Exhibit PW16/A and that is why his signatures appear not only below the printed format of the withdrawal form on the front side but also on the reverse of it in token of his having received the money mentioned in the form. Moreover even though in the complaint Ext. PW15/A it is alleged that out of total amount of Rs. 31000/- & odds, the complainant had withdrawn only Rs. 15000/- but in his testimony in the Court the complainant says that as per entries in the pass book a sum of Rs. 300/- was still at his credit. This statement belies the claim that only a sum of Rs. 15000/- had been withdrawn.

In view of the above said position, we are of the considered view that the findings returned by the trial Court that the case is not made out against either of the two respondents cannot be said to be not warranted by the evidence on record, leave alone its being termed perverse. Hence the appeal is dismissed.

(Surjit Singh)
Judge

(Surinder Singh)
Judge.

August 1, 2007.
(bm)